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ATTENTION: BOX AFTER FINAL
RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE REQUESTED
EXAMINING GROUP 1743

DO NOT ENTER

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88 5/25/02

PATENT
Customer No. 22,852
Attorney Docket No. 02481.1726-00

OK AS ENTERED

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Petra LOOS et al.) Group Art Unit: 1743
)
Serial No.: 09/763,733) Examiner: S. Siefke
)
Filed: February 27, 2001)
)
For: MINI-BASKET FOR ANALYZING)
ACTIVE SUBSTANCE RELEASE)
FROM A MEDICAMENT FORM)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

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TC 1700

REQUEST FOR RECONSIDERATION

In reply to the Office Action dated June 3, 2002, please consider the following remarks:

In the outstanding Office Action, the Examiner finally rejected claims 8-24 under 35 U.S.C. § 102(b) as being anticipated by Mehta et al., U.S. Patent No. 4,856,909.

The Examiner asserts that Mehta et al. discloses an apparatus comprising "a cylindrical mesh basket with a handle and a lid made of mesh; a lid with three fixing clips; a metal band around the open end of the basket; [the] basket to be used with a paddle agitator, continuous flow cell, and rotating basket apparatus."

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In response to Applicants arguments that Mehta et al. does not disclose a handle, the Examiner asserted that the drive shaft 16 of Mehta et al. may be grasped by a hand and therefore may be considered a handle. The Examiner relied upon a definition of a handle found in Webster's Dictionary, which states that a handle is "a part that is designed especially to be grasped by the hand" (emphasis added). The Examiner asserted that the cylindrical shape of the drive shaft enables it to be grasped by a hand, and therefore the drive shaft is a handle.

Applicants disagree with the Examiner's assertion. The drive shaft 16 disclosed in Mehta et al. is not a handle, it is a drive shaft. The drive shaft is not "designed especially" to be grasped by the hand. Rather, it is designed to interact with inner drive shaft 14 to cause rotation of the basket 18. Further, as shown in Fig. 6, drive shaft 16 appears to be contained within a structure extending from outer drive shaft 12, such that drive shaft 16 is not exposed in such a way as to be graspable at all. Mehta et al. does not disclose or suggest use of a structure especially designed to be grasped by the hand to allow the user to carry the basket or remove the cover of the basket.

Even assuming arguendo that the drive shaft 16 was accessible to be grasped by the hand, to do so could likely impair the proper operation of the drive shaft. For example, oils other dirt from the hand could impede proper rotation of the drive shaft. Further, using the drive shaft 16 as a handle could cause stresses on the shaft and on other parts of the basket 18 and chuck 40 that the apparatus is not designed to withstand, thus potentially causing permanent damage to the device.

Independent claim 8 of the present application recites a combination including "a mesh basket configured to receive a material to be tested, and a lid including a handle

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on one side of the lid." A handle is defined on page 616 of The American Heritage College Dictionary, (3rd ed., 1993), as "[a] part that is designed to be held or operated with the hand." As stated previously and shown in Figs. 2 and 4 of Mehta et al., does not disclose or suggest a part that is designed to be held or operated with the hand. Instead, Mehta et al. discloses a chuck 40 used to close the container and including three spring clips extending around the lid to engage with slots 32 of end ring 26. Chuck 40 is formed around and connected to horizontal drive shaft 16 via bearing 62 and bevel gear 52. Horizontal drive shaft 16 is in turn connected to inner drive shaft 14 and outer drive shaft 12 via bevel gear 50 and a couple of bearings. Mehta et al. is completely silent as to the use of a handle on the lid of its apparatus, and the figures do not disclose or suggest the use of a handle. Further, there is no motivation for one of ordinary skill in the art to provide Mehta et al. with a handle on its lid. A handle would interfere with the operation of the horizontal drive shaft 16, thus rendering Mehta et al.'s apparatus inoperable. Thus, Mehta et al. cannot anticipate or render obvious the invention recited in claim 8. Claims 9-24 depend from independent claim 8 and define over Mehta et al. for at least the reasons discussed above. Reconsideration and allowance of the pending claims is requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

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Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: July 8, 2002

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